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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,590	08/25/2003	Ricky W. Purcell	18602 (27839-2528)	4252
45736	7590	11/28/2008	EXAMINER	
Christopher M. Goff (27839) ARMSTRONG TEASDALE LLP ONE METROPOLITAN SQUARE SUITE 2600 ST. LOUIS, MO 63102				ROANE, AARON F
ART UNIT		PAPER NUMBER		
3769				
			NOTIFICATION DATE	DELIVERY MODE
			11/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: RICKY W. PURCELL and JEFFREY E. FISH

Application No. 10/648,590
Technology Center 3700

Mailed: November 26, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*

ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed June 7, 2007 reveals that Claim 10 is dependent upon Claim 9 which was previously cancelled by Appellant in their amendment filed on January 27, 2006. It is unclear what the proper dependency is of Claim 10. Appropriate correction is required.

The Examiner should refer the Appellant to the *Manual of Patent Examining Procedure* (MPEP) § 1206 (8th ed. Rev. 6, Sept 2007) for discussion on filing an amendment to Claim 10.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

(1) to hold the Appeal Brief filed on June 7, 2007 defective;

(2) refer the Appellant to the *Manual of Patent Examining Procedure*

(MPEP) § 1206 (8th ed. Rev. 6, Sept 2007) for guidance on filing a

proper amendment to Claim 10;

(3) to respond to any amendment as may be filed to correct defective

claim 10; and

(4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/SJB

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